

EXHIBIT A

COPY

FILED

MAR 28 2014

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT

By: E. Chais, Deputy

Edward J. Wynne (165819)
ewynne@wynnelawfirm.com
WYNNE LAW FIRM
100 Drakes Landing Road, Ste. 275
Greenbrae, CA 94904
Telephone: (415) 461-6400
Facsimile: (415) 461-3900

David S. Markun (108067)
dmarkun@mzclaw.com
Jeffrey K. Compton (142969)
jcompton@mzclaw.com
MARKUN ZUSMAN FRENIERE &
COMPTON LLP
17383 Sunset Boulevard, Suite A380
Pacific Palisades, California 90272
Telephone: (310) 454-5900
Facsimile: (310) 454-5970

James F. Clapp (145814)
jclapp@sdlaw.com
DOSTART CLAPP & COVENEY, LLP
4370 La Jolla Village Drive, Suite 970
San Diego, California 92122-1253
Tel: 858-623-4200
Fax: 858-623-4299

Attorneys for Plaintiff VLAD TSYN,
individually and on behalf of all others
similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MARIN

VLAD TSYN, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

WELLS FARGO ADVISORS, LLC,

Defendant.

Case No. CV 14 01200

CLASS ACTION COMPLAINT FOR:

1. California Bus. & Prof. Code § 17200
2. 29 U.S.C. § 201
3. California Bus. & Prof. Code § 17200
4. California Labor Code § 1194
5. California Bus. & Prof. Code § 17200
6. California Labor Code § 2802
7. California Labor Code § 203

INTRODUCTION

1. Plaintiff VLAD TSYN ("Plaintiff"), by and through his attorneys, makes the following allegations upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters.

2. Plaintiff brings this lawsuit as a California class action pursuant to California Code of Civil Procedure § 382 on behalf of current and former employees of Defendant Wells Fargo Advisors, LLC ("Wells Fargo" or "Defendant") employed as Financial Advisors, or the functional equivalent, however titled, who worked in California at any time within the last four years of the filing of this complaint and who suffered damages as a result of Defendants' violations of state and federal labor laws,

3. Plaintiff also brings this action as a nationwide collective action pursuant to the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* ("FLSA") on behalf of current and former employees of Defendant Wells Fargo Advisors, LLC ("Wells Fargo" or "Defendant") employed as Financial Advisors, or the functional equivalent, however titled, who worked in the United States of America at any time within the last three years of the filing of this complaint and who suffered damages as a result of Defendants' violations of the FLSA.

4. Plaintiff seeks to represent all persons who were employed in the position of "Financial Advisor" or its functional equivalent (which position may include "Financial Consultant," "Securities Broker," "Stockbroker," "Investment Advisor," and/or "Investment Representative") (collectively referred to as "Financial Advisor") by Defendant in the State of California within the last four years and: (1) were not paid overtime as required by law; and/or (2) were subject to unlawful deductions from pay; and/or (3) were not reimbursed for reasonable and necessary business expenses; and/or (4) are entitled to waiting time or other penalties under California law.

5. Plaintiff also brings this action as a Nationwide Collective Action on behalf of current and former Wells Fargo employees employed within the last three years who elect to opt-in to this action who were employed in the position of "Financial Advisor" by Defendant in the United States of America and: (1) were not paid overtime as required by law; and/or (2) were

1 subject to unlawful deductions from pay; and/or (3) were not reimbursed for reasonable and
2 necessary business expenses resulting in class members not receiving their wages free and clear
3 from unlawful deductions and not receiving their statutory overtime compensation in violation of
4 the FLSA.

5 6. The classes that Plaintiff seeks to represent are:

6 A. California Class:

7 All individuals employed by Defendant as a Financial Advisor, or the
8 functional equivalent however titled, in California at any time within the
9 last four years of the filing of this action until the case is certified as a class
10 action (the "Class Period").

11 B. Nationwide FLSA Class:

12 All individuals employed by Defendant as a Financial Advisor, or the
13 functional equivalent however titled, in the United States of America at any
14 time within the last three years of the filing of this action until the case is
15 certified as a collective action (the "FLSA Class Period").

16 7. As a result of Defendant's violation of state and federal labor law, Plaintiff and the
17 other members of the proposed classes were unlawfully under-compensated for their work and
18 damaged thereby.

19 PARTIES

20 8. During the Class Period, Plaintiff VLAD TSYN was employed by Wells Fargo
21 Advisors, LLC as a Financial Advisor in the State of California and in this judicial district.

22 9. For purposes of the California Collective Action, Plaintiff Tsyn consents in writing
23 to be a party to this action, pursuant to 29 U.S.C. § 216(b).

24 10. During the Class Period, defendant Wells Fargo Advisors, LLC, was and is a
25 Delaware limited liability company that transacts business in this judicial district.

26 VENUE AND JURISDICTION

27 11. Venue is proper in this Court because a substantial part of the events or omissions
28 giving rise to Plaintiff's claims occurred in this judicial district.

12. Jurisdiction is proper in this Court as the claims arise under state law and for those

1 claims arising under federal law, this Court has concurrent subject matter jurisdiction per 29
2 U.S.C. § 216(b).

3 **CLASS ALLEGATIONS**

4 13. Plaintiff brings this action on behalf of himself and on behalf of the proposed
5 class, pursuant to California Code of Civil Procedure § 382 and 29 U.S.C. § 216(b).

6 14. Numerosity. Plaintiff is informed and believes and thereon alleges that the
7 proposed classes are so numerous that joinder is impractical.

8 15. Typicality and Adequacy. There are questions of law and fact common to Plaintiff
9 and the other members of the proposed classes; and, therefore, Plaintiff is similarly situated to the
10 other members of the proposed classes and is an adequate representative of the proposed classes.
11 Plaintiff's claims are typical of the claims of the class members. Plaintiff suffered similar injuries
12 as that suffered by the other class members as a result of Defendant's common policies and
13 practices regarding the payment of wages. In addition, Plaintiff will fairly and adequately protect
14 the interests of the members of the class. Plaintiff has no interest that is adverse to the interests of
15 the other class members. Plaintiff has retained attorneys who are competent and experienced in
16 the prosecution of wage and hour class action litigation.

17 16. Ascertainability. The proposed classes are ascertainable in that their members can
18 be identified and located using information contained in Defendant's payroll and personnel
19 records.

20 17. Commonality. There are common questions of law and fact that predominate over
21 questions which may affect only individual members of the proposed classes, including but not
22 limited to, the following:

23 a. whether the class members qualify for exempt status under the
24 commissioned salesperson exemption;

25 b. whether the class members qualify for exempt status under the
26 administrative exemption;

27 c. whether Defendant's business qualifies as a "retail or service
28 establishment";

1 d. Defendant's expectations as to the duties and responsibilities of the class
2 members, and whether these expectations are reasonable under the circumstances;

3 e. whether Defendant's policies and procedures for deducting from the
4 incentive pay or other wages was unlawful;

5 f. whether class members incurred business related expenses that were
6 reasonably necessary and whether Defendant had a policy and practice of not reimbursing class
7 members for such expenses;

8 g. whether Defendant's failure to pay all wages due and owing to class
9 members at time of termination was willful; and,

10 h. whether the members of the proposed classes have been damaged and, if
11 so, the extent of such damages and whether the members of the proposed classes are entitled to
12 penalties and, if so, the extent of such penalties.

13 18. Superiority. A class/collective action is superior to other available means for the
14 fair and efficient adjudication of this controversy since individual joinder of all members of the
15 proposed classes is impractical. Class action and collective action treatment will permit a large
16 number of similarly situated persons to prosecute their common claims in a single forum
17 simultaneously, efficiently, and without the unnecessary duplication of effort and expense that
18 numerous individual actions would engender. Furthermore, as the damages suffered by each
19 individual member of the proposed classes may be relatively small, the expenses and burden of
20 individual litigation would make it difficult or impossible for individual members of the class to
21 redress the wrongs done to them while an important public interest will be served by addressing
22 the manner as a class action. The cost to the court system of adjudication of such individualized
23 litigation would be substantial. Individualized litigation would also present the potential for
24 inconsistent or contradictory judgments.

25 **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

26 19. Defendant sold and sells securities and other financial products with offices in the
27 State of California and in this judicial district.

28 20. Plaintiff and other Financial Advisors were primarily engaged in sales of financial

1 products to individuals. Plaintiff and other Financial Advisors do not and did not perform work
2 directly related to the management or general business operations of either Defendant or of
3 Defendant's customers. Plaintiff and other Financial Advisors are required by Defendant to
4 follow a specific set of internal compliance guidelines and therefore are closely supervised and do
5 not customarily and regularly exercise independent judgment and discretion. Defendant paid
6 Plaintiff and its other Financial Advisors on an incentive basis without any premium for overtime
7 pay. Plaintiff alleges on information and belief that Defendant did not pay Plaintiff and its
8 Financial Advisors a guaranteed salary free from reduction due to the quantity or quality of the
9 work but rather a recoverable draw against future commissions that failed to satisfy the salary
10 basis test.

11 21. Defendant has maintained policies and practices that required Financial Advisors
12 to subsidize the pay of Defendant's sales assistants by requiring class members to divert a portion
13 of their compensation to the sales assistants.

14 22. Defendant has maintained policies and practices that required Financial Advisors
15 to subsidize the pay of other employees within the Wells Fargo & Company corporate family by
16 requiring class members to pay a portion of their compensation as referral fees to internally
17 generated business even though the referrals are an integral part of the job function of other bank
18 employees and even though selling financial products to the referrals is an integral part of the
19 Financial Advisors' expected employment. In effect, Defendant forces Financial Advisors to
20 subsidize the compensation of certain employees within the Wells Fargo & Company corporate
21 family and to sell financial products to customers referred from other employees all of which
22 increases the profitability of the Defendant at the expense of the Financial Advisors.

23 23. Defendant has maintained policies and/or practices that required Financial
24 Advisors to pay the ordinary business expenses of Defendant. For example, Financial Advisors
25 were forced to bear the cost of trading errors or "broken trades," as well as such ordinary business
26 expenses as cell phone charges and mileage without reimbursement by Defendant.

27 24. Plaintiff and other formerly employed Financial Advisors were not timely and
28 properly paid all of their wages at time of termination. Plaintiff and other formerly employed

1 Financial Advisors did not absent or secret themselves from timely and properly receiving their
2 final wages at time of termination.

3 **FIRST CAUSE OF ACTION**

4 **Bus. & Prof. Code § 17200 *et seq.***

5 25. Plaintiff incorporates the allegations contained in paragraphs 1-24.

6 26. The FLSA states that an employee must be paid overtime, equal to 1.5 times the
7 employee's regular rate of pay, for all hours worked in excess of 40 per week. Plaintiff and the
8 proposed class members are not "exempt" under the FLSA, because, *inter alia*, they did not and
9 do not perform work directly related to the management or general business operations of either
10 Defendant or of Defendant's customers, they are/were primarily engaged in sales and sales
11 related activities, they are/were not paid on a salary basis, and Defendant's business does not
12 qualify as a "retail or service establishment" under 29 U.S.C. § 207(i) and 29 C.F.R. §§ 779.316
13 and 779.317.

14 27. Defendant has committed an act of unfair competition by not paying the required
15 overtime pay to Plaintiff and the members of the proposed class.

16 28. Pursuant to California Business & Professions Code § 17203, Plaintiff requests an
17 order requiring Defendant to make restitution of all overtime wages due to him and the members
18 of the California Class in an amount to be proved at hearing.

19 **SECOND CAUSE OF ACTION**

20 **29 U.S.C. § 201 *et seq.***

21 29. Plaintiff incorporates the allegations contained in paragraphs 1-28.

22 30. At all relevant times, Defendant has been, and continues to be, an employer
23 engaged in interstate commerce and/or the production of goods for commerce, within the
24 meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

25 31. At all relevant times, Defendant employed, and/or continues to employ, Plaintiff
26 and each member of the class within the meaning of the FLSA.

27 32. As alleged above, Defendant had a policy and practice of failing to properly pay
28 wages, free and clear and without reduction, to its Financial Advisors. Defendant's failure to pay

overtime compensation and reduction in the wages of Plaintiff and the Nationwide FLSA Class caused Plaintiff and the Class to be paid less than the statutory overtime compensation for all hours worked.

33. Defendant's failure to pay Plaintiff and all other members of the Nationwide FLSA Class their wages free and clear, without reduction, and at a rate not less than one and one-half times their regular rate for work performed beyond the 40 hour workweek is in violation of 29 U.S.C. §§ 203, 206, 207.

34. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning 29 U.S.C. § 255(a).

35. Due to the Defendant's violations of the FLSA, Plaintiff, on behalf of the members of the Nationwide FLSA Class, are entitled to recover from Defendant unpaid overtime compensation, an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs pursuant to 29 U.S.C. § 216(b).

THIRD CAUSE OF ACTION

Bus. & Prof. Code § 17200 *et seq.*

36. Plaintiffs incorporate the allegations contained in paragraphs 1-35.

37. California Labor Code § 510 and Wage Order 4-2001, 8 C.C.R. § 11040, state that an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day. Plaintiff and the proposed class members are not "exempt" because, *inter alia*, they did not and do not perform work directly related to the management or general business operations of either Defendant or of Defendant's customers, they are/were primarily engaged in sales and sales related activities, they are/were not paid on a salary basis, and they do not spend a majority of their time on exempt tasks.

38. Defendant has committed an act of unfair competition by not paying the required overtime pay to Plaintiff and the members of the proposed class.

39. Pursuant to California Business & Professions Code § 17203, Plaintiff requests an order requiring Defendant to make restitution of all overtime wages due to him and the members of the California Class in an amount to be proved at hearing.

FOURTH CAUSE OF ACTION**Labor Code § 1194**

40. Plaintiffs incorporate the allegations contained in paragraphs 1-39.

41. California Labor Code § 510 and Wage Order 4-2001, 8 C.C.R. § 11040, state that an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day. Plaintiff and the proposed class members are not "exempt" because, *inter alia*, they did not and do not perform work directly related to the management or general business operations of either Defendant or of Defendant's customers, they are/were primarily engaged in sales and sales related activities, they are/were not paid on a salary basis, and they do not spend a majority of their time on exempt tasks.

42. Defendant has violated California labor law by not paying the required overtime pay to Plaintiff and the members of the proposed class.

43. Pursuant to California Labor Code § 1194, Plaintiff requests an order requiring Defendant to pay damages of all overtime wages due to him and the members of the California Class in an amount to be proved at hearing as well as attorneys' fees and costs.

FIFTH CAUSE OF ACTION**Bus. & Prof. Code § 17200 *et seq.***

44. Plaintiff incorporates the allegations contained in paragraphs 1-43.

45. California Labor Code §§ 221, 223, 400-410, 2802, and Title 8 of the California Code of Regulations, § 11040(8) as well as various California Supreme Court and appellate court decisions, generally state that an employer may not deduct from or reduce an employee's wages for the purpose of shifting the employer's ordinary cost of doing business to the employee.

46. Plaintiff and the members of the proposed class have been forced to pay the business expenses of Defendant without reimbursement by Defendant. These expenses include, without limitation, the cost of trading errors or "broken trades," the wages of sales assistants and other support staff, the costs associated with internal referrals of business, as well as cell phone charges and mileage. These expenses were reasonable and necessarily incurred by plaintiff and the members of the proposed class.

48. Pursuant to Business & Professions Code § 17203, Plaintiff requests an order requiring Defendant to make restitution of all wage deductions and unreimbursed business expenses due to Plaintiff and the members of the California Class in an amount to be proved at hearing.

SIXTH CAUSE OF ACTION

Labor Code § 2802

49. Plaintiff incorporates the allegations contained in paragraphs 1-48.

50. California Labor Code § 2802 requires that an employer indemnify its employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.

51. Under Section 2802, Defendant was obligated to indemnify Plaintiff and the other members of the proposed class for such expenses as the cost of broken trades, the wages of sales assistants and other support staff, the costs associated with internal referrals of business, as well as cell phone charges and mileage. These expenses were reasonable and necessarily incurred by Plaintiff and the members of the California Class.

52. Pursuant to Section 2802(c), Plaintiff and the members of the California Class are entitled to their reasonable attorneys' fees and costs.

SEVENTH CAUSE OF ACTION

Labor Code § 203

53. Plaintiff incorporates the allegations contained in paragraphs 1-52.

54. Labor Code § 201 provides: "If an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately."

55. Labor Code § 202 provides: "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or

1 her intention to quit, in which case the employee is entitled to his or her wages at the time of
2 quitting.”

3 56. Labor Code § 203 provides: “If an employer willfully fails to pay, without
4 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages
5 of an employee who is discharged or who quits, the wages of the employee shall continue as a
6 penalty from the due date thereof at the same rate until paid or until an action therefor is
7 commenced; but the wages shall not continue for more than 30 days.”

8 57. Plaintiff and other formerly employed Financial Advisors were discharged by
9 Defendant or voluntarily quit. Defendant, in violation of California Labor Code §§ 201 and 202
10 *et seq.*, has a consistent and uniform policy, practice and procedure of willfully failing to timely
11 pay the wages to its former employees. Plaintiff and other formerly employed Financial Advisors
12 not secret or absent themselves from Defendant nor refuse to accept the earned and unpaid wages
13 from Defendant.

14 58. As a result of Defendant’s violations of Labor Code §§ 201-202, Defendant is
15 liable for waiting time penalties to Plaintiff and the members of the California Class.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

- 18 1. For an Order certifying the proposed California Class and designating this
19 action as a class action pursuant to C.C.P. § 382;
- 20 2. For an Order certifying the proposed nationwide FLSA class and
21 designating this action as a collective action pursuant to 29 U.S.C. §
22 216(b);
- 23 3. For an Order appointing Plaintiff and his counsel to represent the proposed
24 classes, as defined in this Complaint;
- 25 4. For compensatory damages according to proof;
- 26 5. For an order requiring Defendant to make restitution of all wages,
27 including overtime wages, that were illegally withheld;
- 28 6. For an order requiring Defendant to make restitution of all unreimbursed

business related expenses that Plaintiff and the proposed class were required to incur for Defendant's benefit;

7. For an order requiring Defendant to make restitution of all wages that were unlawfully deducted by Defendant;
8. For an order requiring Defendant to provide an accounting of all wages and all sums unlawfully charged back and withheld from compensation due to Plaintiff and the other members of the proposed class;
9. For interest according to proof;
10. For penalties and liquidated damages alleged herein;
11. For reasonable attorneys' fees; and,
12. For such other relief the Court deems just and proper.

DATED: March 28, 2014

WYNNE LAW FIRM
MARKUN ZUSMAN FRENIERE &
COMPTON LLP
DOSTART CLAPP & COVENEY, LLP

By: Edward J. Wynne

Attorneys for Plaintiff VLAD TSYN,
individually and on behalf of all others similar
situated

EXHIBIT B

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

Wells Fargo Advisors, LLC

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Vlad Tsyn

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

MAR 28 2014

JIM T. PETERSON, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: E. CHAIS, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Marin County Superior Court
3501 Civic Center Drive
San Rafael, CA 94903

CASE NUMBER:
(Número del Caso):

1401200

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Edward J. Wynne, 100 Drakes Landing Road, Suite 275, Greenbrae, CA 94904, (415) 461-6400

DATE: MAR 28 2014
(Fecha)

SECRETARY TURNER
(Secretario)

E. CHAIS

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):

Page 1 of 1

EXHIBIT C

COPY**FILED****MAY - 5 2014**KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: R. Smith, Deputy

Edward J. Wynne (165819)
ewynne@wynnelawfirm.com
 WYNNE LAW FIRM
 100 Drakes Landing Road, Ste. 275
 Greenbrae, CA 94904
 Telephone: (415) 461-6400
 Facsimile: (415) 461-3900

David S. Markun (108067)
dmarkun@mzclaw.com
 Jeffrey K. Compton (142969)
jcompton@mzclaw.com
 MARKUN ZUSMAN FRENIERE &
 COMPTON LLP
 17383 Sunset Boulevard, Suite A380
 Pacific Palisades, California 90272
 Telephone: (310) 454-5900
 Facsimile: (310) 454-5970

James F. Clapp (145814)
jclapp@sdlaw.com
 DOSTART CLAPP & COVENEY, LLP
 4370 La Jolla Village Drive, Suite 970
 San Diego, California 92122-1253
 Tel: 858-623-4200
 Fax: 858-623-4299

Attorneys for Plaintiff VLAD TSYN,
 individually and on behalf of all others
 similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA**IN AND FOR THE COUNTY OF MARIN**

VLAD TSYN, individually and on behalf of all
 others similarly situated,

Plaintiff,

v.

WELLS FARGO ADVISORS, LLC, and Does
 1 through 10, inclusive,

Defendant.

Case No. CV 1401200

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

1. California Bus. & Prof. Code § 17200
2. 29 U.S.C. § 201
3. California Bus. & Prof. Code § 17200
4. California Labor Code § 1194
5. California Bus. & Prof. Code § 17200
6. California Labor Code §§ 221, 223,
400-410, 2802 and Cal. Code Reg. tit. 8,
§ 11040(8)
7. California Labor Code § 203
8. California Labor Code §§ 226, 1174,
1174.5
9. California Labor Code § 2699

INTRODUCTION

1. Plaintiff VLAD TSYN ("Plaintiff"), by and through his attorneys, makes the following allegations upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters.

2. Plaintiff brings this lawsuit as a California class action pursuant to California Code of Civil Procedure § 382 on behalf of current and former employees of Defendant Wells Fargo Advisors, LLC ("Wells Fargo" or "Defendant") employed as Financial Advisors, or the functional equivalent, however titled, (which position may include "Financial Consultant," "Securities Broker," "Stockbroker," "Investment Advisor," and/or "Investment Representative") (collectively referred to as "Financial Advisor") who worked in California at any time within the last four years of the filing of this complaint and who suffered damages as a result of Defendants' violations of state and federal labor laws,

3. Plaintiff also brings this action as a nationwide collective action pursuant to the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* ("FLSA") on behalf of current and former employees of Defendant Wells Fargo Advisors, LLC ("Wells Fargo" or "Defendant") employed as Financial Advisors, or the functional equivalent, however titled, who worked in the United States of America at any time within the last three years of the filing of this complaint and who suffered damages as a result of Defendants' violations of the FLSA.

4. Plaintiff seeks to represent all persons who were employed in the position of "Financial Advisor" or its functional equivalent, however titled, by Defendant in the State of California within the last four years and: (1) were not paid overtime as required by law; and/or (2) were subject to unlawful deductions from pay; and/or (3) were not reimbursed for reasonable and necessary business expenses; and/or (4) did not receive accurate itemized wage statements; and/or (5) are entitled to waiting time or other penalties under California law.

5. Plaintiff also brings this action as a Nationwide Collective Action on behalf of current and former Wells Fargo employees employed within the last three years who elect to opt-in to this action who were employed in the position of "Financial Advisor" or its functional equivalent, however titled, by Defendant in the United States of America and: (1) were not paid

overtime as required by law; and/or (2) were subject to unlawful deductions from pay; and/or (3) were not reimbursed for reasonable and necessary business expenses resulting in class members not receiving their wages free and clear from unlawful deductions and not receiving their statutory overtime compensation in violation of the FLSA.

6. The classes that Plaintiff seeks to represent are:

A. California Class:

All individuals employed by Defendant as a Financial Advisor, or the functional equivalent however titled, in California at any time from March 28, 2010 to the time the case is certified as a class action (the "Class Period").

B. Nationwide FLSA Class:

All individuals employed by Defendant as a Financial Advisor, or the functional equivalent however titled, in the United States of America at any time from March 28, 2011 to the time case is certified as a collective action (the "FLSA Class Period").

7. As a result of Defendant's violation of state and federal labor law, Plaintiff and the other members of the proposed classes were unlawfully under-compensated for their work and damaged thereby.

PARTIES

8. During the Class Period, Plaintiff VLAD TSYN was employed by Wells Fargo Advisors, LLC as a Financial Advisor in the State of California and in this judicial district.

9. For purposes of the California Collective Action, Plaintiff Tsyn consents in writing to be a party to this action, pursuant to 29 U.S.C. § 216(b).

10. During the Class Period, defendant Wells Fargo Advisors, LLC, was and is a Delaware limited liability company that transacts business in this judicial district.

11. The true names and capacities of persons or entities, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 10, inclusive, are currently unknown to Plaintiff, who therefore sue Defendant by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon allege, that each of the Defendants

1 designated herein as a DOE defendant is legally responsible in some manner for the unlawful acts
2 referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true
3 names and capacities of the Defendants designated hereinafter as DOES when such identities
4 become known.

5 12. All of Plaintiff's claims stated herein are asserted against Defendant and any of its
6 owners, predecessors, successors, subsidiaries, and/or assigns.

7 VENUE AND JURISDICTION

8 13. Venue is proper in this Court because a substantial part of the events or omissions
9 giving rise to Plaintiff's claims occurred in this judicial district.

10 14. Jurisdiction is proper in this Court as the claims arise under state law and for those
11 claims arising under federal law, this Court has concurrent subject matter jurisdiction per 29
12 U.S.C. § 216(b).

13 CLASS ALLEGATIONS

14 15. Plaintiff brings this action on behalf of himself and on behalf of the proposed
15 class, pursuant to California Code of Civil Procedure § 382 and 29 U.S.C. § 216(b).

16 16. Numerosity. Plaintiff is informed and believes and thereon alleges that the
17 proposed classes are so numerous that joinder is impractical.

18 17. Typicality and Adequacy. There are questions of law and fact common to Plaintiff
19 and the other members of the proposed classes; and, therefore, Plaintiff is similarly situated to the
20 other members of the proposed classes and is an adequate representative of the proposed classes.
21 Plaintiff's claims are typical of the claims of the class members. Plaintiff suffered similar injuries
22 as that suffered by the other class members as a result of Defendant's common policies and
23 practices regarding the payment of wages. In addition, Plaintiff will fairly and adequately protect
24 the interests of the members of the class. Plaintiff has no interest that is adverse to the interests of
25 the other class members. Plaintiff has retained attorneys who are competent and experienced in
26 the prosecution of wage and hour class action litigation.

27 18. Ascertainability. The proposed classes are ascertainable in that their members can
28 be identified and located using information contained in Defendant's payroll and personnel

1 records.

2 19. Commonality. There are common questions of law and fact that predominate over
3 questions which may affect only individual members of the proposed classes, including but not
4 limited to, the following:

5 a. whether the class members qualify for exempt status under the
6 commissioned salesperson exemption;

7 b. whether the class members qualify for exempt status under the
8 administrative exemption;

9 c. whether Defendant's business qualifies as a "retail or service
10 establishment";

11 d. Defendant's expectations as to the duties and responsibilities of the class
12 members, and whether these expectations are reasonable under the circumstances;

13 e. whether Defendant's policies and procedures for deducting from the
14 incentive pay or other wages was unlawful;

15 f. whether class members incurred business related expenses that were
16 reasonably necessary and whether Defendant had a policy and practice of not reimbursing class
17 members for such expenses;

18 g. whether Defendant's failure to pay all wages due and owing to class
19 members at time of termination was willful; and,

20 h. whether the members of the proposed classes have been damaged and, if
21 so, the extent of such damages and whether the members of the proposed classes are entitled to
22 penalties and, if so, the extent of such penalties.

23 20. Superiority. A class/collective action is superior to other available means for the
24 fair and efficient adjudication of this controversy since individual joinder of all members of the
25 proposed classes is impractical. Class action and collective action treatment will permit a large
26 number of similarly situated persons to prosecute their common claims in a single forum
27 simultaneously, efficiently, and without the unnecessary duplication of effort and expense that
28 numerous individual actions would engender. Furthermore, as the damages suffered by each

individual member of the proposed classes may be relatively small, the expenses and burden of individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them while an important public interest will be served by addressing the manner as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

21. Defendant sold and sells securities and other financial products with offices in the State of California and in this judicial district.

22. Plaintiff and other Financial Advisors were primarily engaged in sales of financial products to individuals. Plaintiff and other Financial Advisors do not and did not perform work directly related to the management or general business operations of Defendant or of Defendant's customers. Plaintiff and other Financial Advisors are required by Defendant to follow a specific set of internal compliance guidelines and therefore are closely supervised and do not customarily and regularly exercise independent judgment and discretion. Defendant paid Plaintiff and its other Financial Advisors on an incentive basis without any premium for overtime pay. Plaintiff alleges on information and belief that Defendant did not pay Plaintiff and its Financial Advisors a guaranteed salary free from reduction due to the quantity or quality of the work but rather a recoverable draw against future commissions that failed to satisfy the salary basis test.

23. Plaintiff alleges that Defendant willfully, intentionally and knowingly did not provide Plaintiff and other Financial Advisors an accurate itemized statements showing all of the information required pursuant to Labor Code §§ 226 and 1174 and Plaintiff and the other Financial Advisors were injured thereby.

24. Defendant has maintained policies and practices that required Financial Advisors to subsidize the pay of Defendant's sales assistants by requiring class members to divert a portion of their compensation to the sales assistants.

25. Defendant has maintained policies and practices that required Financial Advisors to subsidize the pay of other employees within the Wells Fargo & Company corporate family by

1 requiring class members to pay a portion of their compensation as referral fees to internally
2 generated business even though the referrals are an integral part of the job function of other bank
3 employees and even though selling financial products to the referrals is an integral part of the
4 Financial Advisors' expected employment. In effect, Defendant forces Financial Advisors to
5 subsidize the compensation of certain employees within the Wells Fargo & Company corporate
6 family and to sell financial products to customers referred from other employees all of which
7 increases the profitability of the Defendant at the expense of the Financial Advisors.

8 26. Defendant has maintained policies and/or practices that required Financial
9 Advisors to pay the ordinary business expenses of Defendant. For example, Financial Advisors
10 were forced to bear the cost of trading errors or "broken trades," as well as such ordinary business
11 expenses as cell phone charges and mileage without reimbursement by Defendant.

12 27. Plaintiff and other formerly employed Financial Advisors were not timely and
13 properly paid all of their wages at time of termination. Plaintiff and other formerly employed
14 Financial Advisors did not absent or secret themselves from timely and properly receiving their
15 final wages at time of termination.

16 **FIRST CAUSE OF ACTION**

17 **Bus. & Prof. Code § 17200 *et seq.***

18 28. Plaintiff incorporates the allegations contained in paragraphs 1-27.

19 29. The FLSA states that an employee must be paid overtime, equal to 1.5 times the
20 employee's regular rate of pay, for all hours worked in excess of 40 per week. Plaintiff and the
21 proposed class members are not "exempt" under the FLSA, because, *inter alia*, they did not and
22 do not perform work directly related to the management or general business operations of either
23 Defendant or of Defendant's customers, they are/were primarily engaged in sales and sales
24 related activities, they are/were not paid on a salary basis, and Defendant's business does not
25 qualify as a "retail or service establishment" under 29 U.S.C. § 207(i) and 29 C.F.R. §§ 779.316
26 and 779.317.

27 30. Defendant has committed an act of unfair competition by not paying the required
28 overtime pay to Plaintiff and the members of the proposed class.

31. Pursuant to California Business & Professions Code § 17203, Plaintiff requests an order requiring Defendant to make restitution of all overtime wages due to him and the members of the California Class in an amount to be proved at hearing.

SECOND CAUSE OF ACTION

29 U.S.C. § 201 *et seq.*

32. Plaintiff incorporates the allegations contained in paragraphs 1-31.

33. At all relevant times, Defendant has been, and continues to be, an employer engaged in interstate commerce and/or the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. §§ 206(a) and 207(a).

34. At all relevant times, Defendant employed, and/or continues to employ, Plaintiff and each member of the class within the meaning of the FLSA.

35. As alleged above, Defendant had a policy and practice of failing to properly pay wages, free and clear and without reduction, to its Financial Advisors. Defendant's failure to pay overtime compensation and reduction in the wages of Plaintiff and the Nationwide FLSA Class caused Plaintiff and the Class to be paid less than the statutory overtime compensation for all hours worked.

36. Defendant's failure to pay Plaintiff and all other members of the Nationwide FLSA Class their wages free and clear, without reduction, and at a rate not less than one and one-half times their regular rate for work performed beyond the 40 hour workweek is in violation of 29 U.S.C. §§ 203, 206, 207.

37. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning 29 U.S.C. § 255(a).

38. Due to the Defendant's violations of the FLSA, Plaintiff, on behalf of the members of the Nationwide FLSA Class, are entitled to recover from Defendant unpaid overtime compensation, an additional amount equal as liquidated damages, reasonable attorneys' fees, and costs pursuant to 29 U.S.C. § 216(b).

THIRD CAUSE OF ACTION

Bus. & Prof. Code § 17200 *et seq.*

39. Plaintiff incorporates the allegations contained in paragraphs 1-38.

40. California Labor Code § 510 and Wage Order 4-2001, 8 C.C.R. § 11040, state that an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day. Plaintiff and the proposed class members are not "exempt" because, *inter alia*, they did not and do not perform work directly related to the management or general business operations of either Defendant or of Defendant's customers, they are/were primarily engaged in sales and sales related activities, they are/were not paid on a salary basis, and they do not spend a majority of their time on exempt tasks.

41. Defendant has committed an act of unfair competition by not paying the required overtime pay to Plaintiff and the members of the proposed class.

42. Pursuant to California Business & Professions Code § 17203, Plaintiff requests an order requiring Defendant to make restitution of all overtime wages due to him and the members of the California Class in an amount to be proved at hearing and reasonably attorney fees per CCP § 1021.5.

FOURTH CAUSE OF ACTION

Labor Code § 1194

43. Plaintiff incorporates the allegations contained in paragraphs 1-42.

44. California Labor Code § 510 and Wage Order 4-2001, 8 C.C.R. § 11040, state that an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day. Plaintiff and the proposed class members are not "exempt" because, *inter alia*, they did not and do not perform work directly related to the management or general business operations of either Defendant or of Defendant's customers, they are/were primarily engaged in sales and sales related activities, they are/were not paid on a salary basis, and they do not spend a majority of their time on exempt tasks.

45. Defendant has violated California labor law by not paying the required overtime pay to Plaintiff and the members of the proposed class.

46. Pursuant to Labor Code § 218.6, Plaintiff requests prejudgment interest on all wages from the date the wages were due and payable.

47. Pursuant to California Labor Code §§ 218.5 and 1194, Plaintiff requests an order requiring Defendant to pay damages of all overtime wages due to him and the members of the California Class in an amount to be proved at hearing as well as attorneys' fees and costs.

FIFTH CAUSE OF ACTION

Bus. & Prof. Code § 17200 *et seq.*

48. Plaintiff incorporates the allegations contained in paragraphs 1-47.

49. California Labor Code §§ 221, 223, 400-410, 2802, and Title 8 of the California Code of Regulations, § 11040(8) as well as various California Supreme Court and appellate court decisions, generally state that an employer may not deduct from or reduce an employee's wages for the purpose of shifting the employer's ordinary cost of doing business to the employee.

50. Plaintiff and the members of the proposed class have been forced to pay the business expenses of Defendant without reimbursement by Defendant. These expenses include, without limitation, the cost of trading errors or "broken trades," the wages of sales assistants and other support staff, the costs associated with internal referrals of business, as well as cell phone charges and mileage. These expenses were reasonable and necessarily incurred by Plaintiff and the members of the proposed class.

51. Defendant has committed an act of unfair competition by illegally deducting these amounts from the wages of Plaintiff and the members of the proposed class and/or failing to reimburse these amounts to Plaintiff and the members of the proposed class.

52. Pursuant to Business & Professions Code § 17203, Plaintiff requests an order requiring Defendant to make restitution of all wage deductions and unreimbursed business expenses due to Plaintiff and the members of the California Class in an amount to be proved at hearing.

SIXTH CAUSE OF ACTION

Labor Code §§ 221, 223, 400-410, 2802 and Cal. Code Reg. tit. 8, § 11040(8)

53. Plaintiff incorporates the allegations contained in paragraphs 1-52.

54. Labor Code § 221 provides, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee."

55. Labor Code § 223 provides: "Where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract."

56. Labor Code §§ 400-410 ("Employee Bond Law") provide the limited circumstances under which an employer can exact a cash bond from its employees. These provisions are designed to protect employees against the very real danger of an employer taking or misappropriating employee funds held by the employer in trust.

57. Labor Code § 2802 provides that "[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

58. Title 8 of the California Code of Regulations, § 11040(8), states, "No employer shall make any deduction from the wage or require any reimbursement from an employee for any cash shortage, breakage, or loss of equipment, unless it can be shown that the shortage, breakage, or loss is caused by a dishonest or willful act, or by the gross negligence of the employee."

59. These and related statutes are designed to prevent employers from using secret deductions or other accounting practices to drive down the wage scale or pay employees less than the stated wage. They also reflect California's fundamental and substantial public policy protecting employee wages.

60. Plaintiff and other Financial Advisors were subject to deductions from their compensation by Defendant which were not the result of dishonest, willful, or grossly negligent acts by those employees, but instead were the ordinary costs of doing business. Plaintiff and other Financial Advisors were not reimbursed for necessary business related expenditures such as mileage and cell phone expenses. Defendant was obligated to indemnify Plaintiff and the other members of the California Class for such expenses as the cost of broken trades, the wages of sales assistants and other support staff, the costs associated with internal referrals of business, as well as unreimbursed cell phone charges and mileage. These expenses were reasonable and

1 necessarily incurred by Plaintiff and the members of the California Class.

2 61. Defendant unlawfully charged and failed to reimburse its Financial Advisors in
3 violation of Labor Code §§ 221, 223, 400-410, 2802 and Cal. Code Reg. tit. 8, § 11040(8) and
4 Plaintiff and similarly situated California Class members are entitled to reimbursement for, and
5 repayment of, these deductions, plus interest and attorneys' fees and costs.

6 62. As a result of Defendant's violations of Labor Code § 2802, Defendant is also
7 liable for attorneys' fees and costs under Labor Code § 2802(c).

8 SEVENTH CAUSE OF ACTION

9 Labor Code § 203

10 63. Plaintiff incorporates the allegations contained in paragraphs 1-62.

11 64. Labor Code § 201 provides: "If an employer discharges an employee, the wages
12 earned and unpaid at the time of discharge are due and payable immediately."

13 65. Labor Code § 202 provides: "If an employee not having a written contract for a
14 definite period quits his or her employment, his or her wages shall become due and payable not
15 later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or
16 her intention to quit, in which case the employee is entitled to his or her wages at the time of
17 quitting."

18 66. Labor Code § 203 provides: "If an employer willfully fails to pay, without
19 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages
20 of an employee who is discharged or who quits, the wages of the employee shall continue as a
21 penalty from the due date thereof at the same rate until paid or until an action therefor is
22 commenced; but the wages shall not continue for more than 30 days."

23 67. Plaintiff and other formerly employed Financial Advisors were discharged by
24 Defendant or voluntarily quit. Defendant, in violation of California Labor Code §§ 201 and 202
25 *et seq.*, has a consistent and uniform policy, practice and procedure of willfully failing to timely
26 pay the wages to its former employees. Plaintiff and other formerly employed Financial Advisors
27 not secret or absent themselves from Defendant nor refuse to accept the earned and unpaid wages
28 from Defendant.

68. As a result of Defendant's violations of Labor Code §§ 201-202, Defendant is liable for waiting time penalties to Plaintiff and the members of the California Class.

EIGHTH CAUSE OF ACTION

Labor Code §§ 226, 1174, and 1174.5

69. Plaintiff incorporates the allegations contained in paragraphs 1-68.

70. Defendant, as a matter of corporate policy did not maintain or provide accurate itemized statements in violation of Labor Code §§ 226 and 1174.

71. For instance, Defendant did not state or did not accurately state, *inter alia*, the total hours worked, hours worked daily, all deductions, or the actual hourly rate of Plaintiff and other Financial Advisors in their pay statements. Defendant's failure to maintain accurate itemized statements was willful, knowing, intentional, and the result of Defendant's custom, habit, pattern and practice. Defendant's failure to maintain accurate itemized statements was not the result of isolated, sporadic or unintentional behavior. Due to Defendant's failure to comply with the requirements of Labor Code §§ 226 and 1174, Plaintiff and other Financial Advisors were injured thereby.

72. Such a pattern and practice as alleged herein is unlawful and creates an entitlement to recovery by Plaintiff and the class of Financial Advisors identified herein for all damages and penalties pursuant to Labor Code §§ 226 and 1174.5, including interest thereon, penalties, attorneys' fees and costs.

NINTH CAUSE OF ACTION

Labor Code § 2699

73. Plaintiff incorporates the allegations contained in paragraphs 1-72.

74. As alleged above, Defendant failed to comply with the California Labor Code. As such, Plaintiff is an "aggrieved employee" as defined in Labor Code § 2699(a). Pursuant to Labor Code § 2699, the Labor Code Private Attorneys General Act of 2004, Plaintiff brings this action on behalf of himself and other current and former Financial Advisors against Wells Fargo and seeks recovery of applicable civil penalties as follows:

a. where civil penalties are specifically provided in the Labor Code for each of the violations alleged herein, Plaintiffs seek recovery of such penalties;

b. where civil penalties are not established in the Labor Code for each of the violations alleged herein, Plaintiffs seek recovery of the penalties established in § 2699(e) of the Labor Code Private Attorneys General Act of 2004, and in accordance with § 200.5 of the Labor Code.

75. On March 28, 2014, Plaintiff caused to be served written notice via certified mail to the Labor and Workforce Development Agency and to Defendant Wells Fargo Advisors, LLC of Plaintiff's intent to amend the complaint to add a cause of action pursuant to Labor Code § 2699 *et seq.* Included with the notice was a draft amended complaint substantially similar to this First Amended Complaint. Plaintiff did not receive a response from the LWDA of Plaintiff's certified letter. A copy of Plaintiff's notice without enclosure is attached hereto.

76. Also on March 28, 2014, Defendant Wells Fargo Advisors, LCC received a filed endorsed stamped copy of the original complaint in this action.

PRAYER FOR RELIEF

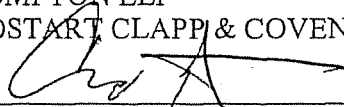
WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

1. For an Order certifying the proposed California Class and designating this action as a class action pursuant to C.C.P § 382;
2. For an Order certifying the proposed nationwide FLSA class and designating this action as a collective action pursuant to 29 U.S.C. § 216(b);
3. For an Order appointing Plaintiff and his counsel to represent the proposed classes, as defined in this Complaint;
4. For compensatory damages according to proof;
5. For an order requiring Defendant to make restitution of all wages, including overtime wages, that were illegally withheld;
6. For an order requiring Defendant to make restitution of all unreimbursed business related expenses that Plaintiff and the proposed class were required to incur for Defendant's benefit;

7. For an order requiring Defendant to make restitution of all wages that were unlawfully deducted by Defendant;
8. For an order requiring Defendant to provide an accounting of all wages and all sums unlawfully charged back and withheld from compensation due to Plaintiff and the other members of the proposed class;
9. For interest according to proof;
10. For penalties and liquidated damages alleged herein;
11. For reasonable attorneys' fees and costs; and,
12. For such other relief the Court deems just and proper.

DATED: May 5, 2014

WYNNE LAW FIRM
MARKUN ZUSMAN FRENIERE &
COMPTON LLP
DOSTART CLAPP & COVENEY, LLP


By: Edward J. Wynne

Attorneys for Plaintiff VLAD TSYN,
individually and on behalf of all others similar
situated

EXHIBIT D

**AMENDED
SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

WELLS FARGO ADVISORS, LLC

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

VLAD TSYN

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

MAY - 5 2014

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: R. Smith, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Marin County Superior Court

3501 Civic Center Drive
San Rafael, CA 94903

CASE NUMBER:
(Número del Caso):

CIV 1401200

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Edward J. Wynne, 100 Drakes Landing Road, Suite 275, Greenbrae, CA 94904, (415) 461-6400

KIM TURNER

DATE: **MAY - 5 2014**
(Fecha)

Clerk, by
(Secretario)

R. SMITH, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

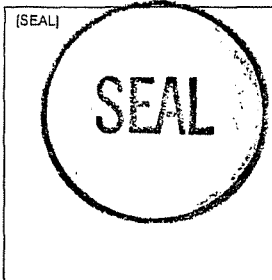


EXHIBIT E

COPY

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Edward J. Wynne (165819) WYNNE LAW FIRM 100 Drakes Landing Road, Suite 275 Greenbrae, CA 94904 TELEPHONE NO.: (415) 461-6400 FAX NO.: (415) 461-3900 ATTORNEY FOR (Name): Plaintiff, Vlad Tsyn		FOR COURT USE ONLY RECEIVED MARIN COUNTY SUPERIOR COURT 2014 MAR 28 P 12:31
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Marin STREET ADDRESS: 3501 Civic Center Drive MAILING ADDRESS: PO Box 4988 CITY AND ZIP CODE: San Rafael, CA 94913 BRANCH NAME:		
CASE NAME: Vlad Tsyn v. Wells Fargo Advisors, LLC		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Seven
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 28, 2014

Edward J. Wynne

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

EXHIBIT F

MARIN COUNTY SUPERIOR COURT

P.O. Box 4988
San Rafael, CA 94913-4988

MAR 28 2014

KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURTPLAINTIFF: Vlad Tsyn

vs.

DEFENDANT: WELLS Fargo
Advisors, LLCCASE NO. CV 1401200

By: E. Chais, Deputy

NOTICE OF CASE
MANAGEMENT CONFERENCE
(CIVIL)

This case is subject to the Trial Court Delay Reduction Act, Government Code § 68600 et seq., and Civil Rules of the Uniform Local Rules of the Marin County Superior Court (hereafter MCSC Civil Rules).

Pursuant to California Rules of Court 3.734, this case is assigned to Judge Chernus, Department B. This assignment is for all purposes.

MCSC Civil Rule 1.20 and CRC 3.110(b) and 3.221(c) requires that the Summons and Complaint, a copy of this notice, a blank Case Management Conference Statement form, and an Alternative Dispute Resolution (ADR) information package be served and that Proof of Service be filed within 60 days of the filing date of this Complaint. CRC 3.110(d) requires that defendants file responsive pleadings within 30 days of service, unless the parties stipulate to an extension of not more than 15 days.

1. IT IS ORDERED that the parties/counsel to this action shall:

- a. Comply with the filing and service deadlines in MCSC Civil Rules 1.18 and CRC 3.110, or APPEAR IN PERSON at the Order to Show Cause hearing on the dates set forth below:

Hearing on Failure to File Proof of Service 6/9/14 8:30/9:00 A.M.

Hearing on Failure to Answer 7/8/14 8:30/9:00 A.M.

b. Appear for a Case Management Conference on 8/18/14 8:30/9:00 A.M.

2. Telephonic appearance at Case Management Conference (CMC) may be available by contacting COURT CALL, an independent vendor, not less than five (5) court business days before the hearing date. Parties may make arrangements by calling (888) 882-6878. This service is subject to charges by the vendor.
3. You must be familiar with the case and be fully prepared to discuss the suitability of the case for binding or non-binding arbitration, mediation, or neutral case evaluation. **Counsel must discuss ADR options with their clients prior to attending the CMC** and should be prepared to discuss with the court their authority to participate in ADR.
4. Case Management Conference Statements must be filed and served on all parties, including the court, at least 15 calendar days before the CMC (CRC 3.725). **(A \$49.00 sanction will be charged for late filing of a statement.)**

Case Management Conference Statement must be filed by 8/1/14

5. All Law and Motion matters will be heard on the calendar of the assigned Judge. Tentative Rulings are available online by 2:00 p.m. on the weekday preceding the hearing date at http://www.marin court.org/civil_tentative.htm. If you need to make other arrangements, please call (415) 444-7170.

Distribution: Original - Court File; Canary - Plaintiff